
PRELIMINARY DRAFT
No. 3496

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2007 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 29-1-8-1.5; IC 34-30-2-122.7.

Synopsis: Probate administration. Authorizes the use of an affidavit to obtain the information necessary to determine whether the value of a decedent's gross probate estate is low enough to allow the estate to be administered summarily. Provides immunity from civil liability to a person who provides information in good faith reliance upon the affidavit.

Effective: July 1, 2007.



A BILL FOR AN ACT to amend the Indiana Code concerning probate.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 29-1-8-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. (a) This section does not apply to the following:**

- (1) Real property owned by a decedent.**
- (2) The contents of a safe deposit box rented by a decedent from a financial institution organized or reorganized under the law of any state (as defined in IC 28-2-17-19) or the United States.**

(b) After the death of a decedent, a person:

- (1) indebted to the decedent; or**
- (2) having possession of:**
 - (A) personal property;**
 - (B) an instrument evidencing a debt;**
 - (C) an obligation;**
 - (D) a chose in action;**
 - (E) a life insurance policy;**
 - (F) a bank account; or**
 - (G) intangible property, including annuities, fixed income investments, mutual funds, cash, money market accounts, or stocks;**

belonging to the decedent;

shall furnish the date of death value of the indebtedness or property and the names of the known beneficiaries of property described in this subsection to a person who presents an affidavit containing the information required by subsection (c).

(c) An affidavit presented under subsection (b) must state:

- (1) the name, address, Social Security number, and date of death of the decedent;**
- (2) the name and address of the affiant, and the relationship of the affiant to the decedent;**
- (3) that the disclosure of the date of death value is necessary**



to determine whether the decedent's estate can be administered under the summary procedures set forth in this chapter; and

(4) that the affiant is answerable and accountable for the information received to the decedent's personal representative, if any, or to any other person having a superior right to the property or indebtedness.

(d) A person presented with an affidavit under subsection (b) must provide the requested information within three (3) business days after being presented with the affidavit.

(e) A person who acts in good faith reliance on an affidavit presented under subsection (b) is immune from liability for the disclosure of the requested information.

(f) A person who:

(1) is presented with an affidavit under subsection (b); and

(2) refuses to provide the requested information within three

(3) business days after being presented with the affidavit;

is liable to the estate of the decedent.

(g) A plaintiff who prevails in an action to compel a person presented with an affidavit under subsection (b) to accept the authority of the affiant or in an action for damages arising from a person's refusal to provide the information requested in an affidavit presented under subsection (b) shall recover the following:

(1) Three (3) times the amount of the actual damages.

(2) Attorney's fees and court costs.

(3) Prejudgment interest on the actual damages from the date the affidavit was presented to the person.

SECTION 2. IC 34-30-2-122.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 122.7. IC 29-1-8-1.5 (Concerning a person who relies on an affidavit requesting information necessary to determine whether an estate can be summarily administered).**

